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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,793	07/23/2001	Martin Achtenhagen	2500.380	2661

7590 04/22/2003

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EXAMINER

NGUYEN, TU T

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/909,793	ACHTENHAGEN ET AL.
	Examiner Tu T Nguyen	Art Unit 2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 January 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 1-6 is/are allowed.

6) Claim(s) 7-12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

Detailed Office Action

***Claim Rejections - 35 U.S.C. § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishi et al (5,724,126).

With respect to claim 7, Nishi discloses a system for measuring a time delay. The method comprises: inputting a modulated pump signal to generate Raman gain (column 2, lines 50-55; column 1, lines 25-30) into the input end of the waveguide 6 (fig 16), inputting a probe signal (column 2, lines 50-55), combining the two signals 5 (fig 1), impressing the combined signal to the waveguide 6 (fig 16), varying the frequency of the pump signal (column 3, lines 45-50), detecting the output signal at the output end of the fiber 8 (fig 1).

Nishi does not disclose a means for separating the probe signal from the pump signal. However, using a means for separating the probe signal from the pump signal for measuring the chromatic dispersion would have been known. The skill artisan would have been motivated to use a known separating means to Nishi's system to facilitate the measuring.

With respect to claim 8, refer to discussion in claim 1 above for the combining means.

With respect to claim 9, Nishi discloses detecting the output signal at the output end 7 (fig 1) of the fiber. However, Nishi does not disclose a step of separating the probe and the pump signal. Using a separation means to separate two signals would have been known. It would have been obvious to modify Nishi's method with a known separating means to separate the pump and the probe signal for calculating the group delay easier.

With respect to claims 10-12, the claimed external modulator, electrical modulator, optical modulator would have been known. It would have been obvious a design choice to substitute Nishi's system with different known modulators to meet the system requirement. The modification involves only routine skill in the art.

#### ***Allowable Subject Matter***

Claims 1-6 are allowed.

Prior arts of record does not disclose a method for measuring a group delay of an optical waveguide. The method comprises steps of: inputting a modulated narrowband pump signal, inputting a narrowband probe signal, combining the pump and the probe signal, varying the modulation frequency of the pump signal, measuring frequency response, and determining the group delay which structurally arranged and functionally operated as claimed

in claims 1,4.

***Response to Arguments***

Applicant's arguments filed on 01/31/2003 have been fully considered but they are not persuasive.

In response to applicant's arguments, the recitation "Nishi et al do not disclose an apparatus for measuring chromatic dispersion of a waveguide" on page 5 has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

With respect to Applicant on page 5, third paragraph, Nishi discloses a detector 7 (fig 1) located at the output end of the fiber 6 (fig 1).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu T Nguyen whose telephone number is (703) 306-9185. The examiner can normally be reached on M-T 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G Font can be reached on (703) 308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Tu T. Nguyen  
Primary Examiner  
Group Art Unit 2877  
4/21/03